



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

**SANDY'S MHC, L.L.C. DBA SANDY'S MOBILE HOME COMMUNITY,
L.L.C.**

(VPDES Permit No. VA0088811)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a), between the State Water Control Board and Sandy's Mobile Home Community, L.L.C., for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

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5. "Order" means this document, also known as a Consent Special Order.
6. "STP" means sewage treatment plant.
7. "Sandy's" means Sandy's Mobile Court, Inc., the original owner and operator of Sandy's STP.
8. "Sandy's MHC, L.L.C." means Sandy's Mobile Home Community, L.L.C. (the present owner), which owns and operates the Sandy's STP.
9. "Facility" and "Plant" means the Sandy's STP located in Frederick County, Virginia.
10. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
11. "1999 Permit" means Virginia Pollutant Discharge Elimination System Permit No. VA0088811 issued to Sandy's Mobile Court, Inc. (the original owner), which became effective December 29, 1999 and expired December 29, 2004. Permit limits include pH, carbonaceous biochemical oxygen demand ["CBOD"], total suspended solids ["TSS"], dissolved oxygen ["D.O."], ammonia, and total residual chlorine ["TRC"].
12. "2005 Permit" means Virginia Pollutant Discharge Elimination System Permit No. VA0088811 issued to Sandy's Mobile Home Community, L.L.C. (the present owner), which became effective January 24, 2005 and expires December 31, 2009. Permit limits include pH, CBOD, TSS, D.O., ammonia, and total residual chlorine ["TRC"].
13. "2003 Order" means the Consent Special Order that became effective October 30, 2003 which was issued to Sandy's Mobile Court, Inc. The 2003 Order cancelled and superceded the Order issued on April 9, 2000.
14. "NOV" means Notice of Violation.
15. "Regulation" means the VPDES Permit Regulation 9 VAC 25-31-10 et seq.
16. "P.E.R." means preliminary engineering report.
17. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Sandy's previously owned and operated the wastewater treatment facility serving approximately 110 mobile homes in Frederick County, Virginia, which was the subject of the 1999 Permit. The Facility discharges to an unnamed tributary to Crooked Run in the Shenandoah River subbasin, Potomac River basin.
2. On April 9, 2000 DEQ issued a Consent Special Order to Sandy's that required Sandy's to provide Facility upgrades to meet the VPDES permit's final effluent limitations including ammonia. Sandy's upgraded the Facility, however, the upgraded Facility was unable to comply with the Permit's ammonia final effluent limitations and began to experience violations.
3. DEQ issued the 2003 Order to Sandy's to address ammonia effluent exceedances and to require Sandy's to come into compliance with the VPDES permit, State Water Control Law and the Regulations by not later than December 1, 2006. The 2003 Order provided Sandy's with a number of options to come into compliance, including upgrading the Facility. The 2003 Order also provided interim ammonia effluent limitations. Sandy's chose to upgrade the Facility and submitted to DEQ a plan for the upgrade of the Facility.
4. In October 2004, Sandy's sold the mobile home park and STP to Sandy's MHC, L.L.C. (these are two separate and distinct legal entities). While the ownership was transferred to Sandy's MHC, L.L.C., the parties failed to provide DEQ with a Change of Ownership form for the VPDES Permit in a timely manner.
5. DEQ issued NOV No. W2004-12-V-0002 on December 23, 2004, to Sandy's for violations of CBOD, TSS, and pH effluent limits occurring during the period from March 2004 through October 2004 and for failure to submit certain data on the August Discharge Monitoring Report. Sandy's was, at the time, the holder of the 1999 Permit.
6. In addition to the effluent violations cited in the NOV, the Facility experienced exceedances of CBOD and ammonia effluent limitations, during November 2004 and ammonia effluent limitations during January 2005, which have not been cited on any enforcement notice.
7. On January 18, 2005, DEQ received a Change of Ownership form from Sandy's MHC, L.L.C.
8. On January 18, 2005, DEQ met with Sandy's MHC, L.L.C. in an informal conference to discuss the December 23, 2004, NOV and resolution of the violations. The January 18, 2005, meeting included discussions of the Facility operations and the need for a plan and schedule of corrective actions to return the Facility to compliance with final effluent limitations. Sandy's MHC, L.L.C. indicated it was in agreement with entering

into an Order to address these additional violations and to fulfill the remaining requirements in the 2003 Order to return the Facility to compliance.

9. By submittal dated January 21, 2005, Sandy's MHC, L.L.C., via its consultant, provided a written plan and schedule of corrective actions to bring the Facility into compliance with the requirements of the draft 2005 Permit. Based on this information, DEQ is revising and issuing this Consent Order to identify the change of ownership and the agreement by the new owner to comply with the revised terms now being addressed in this Order. Sections of this plan and schedule have been incorporated into Appendix A of this Order.
10. The 2005 Permit was issued to Sandy's MHC, L.L.C. on January 24, 2005.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a), orders Sandy's MHC, L.L.C., and Sandy's MHC, L.L.C. agrees, to perform the actions described in Appendix A and Appendix B of this Order.
2. This Order cancels and supersedes the 2003 Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sandy's MHC, L.L.C., for good cause shown by Sandy's MHC, L.L.C., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein in Section C. Item 6. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Sandy's MHC, L.L.C. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Sandy's MHC, L.L.C. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Sandy's MHC, L.L.C. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water

Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Sandy's MHC, L.L.C. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Sandy's MHC, L.L.C. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Sandy's MHC, L.L.C. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sandy's MHC, L.L.C. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Valley Regional Office within 24 hours of learning of any condition above, which Sandy's MHC, L.L.C. intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Sandy's. Notwithstanding the foregoing, Sandy's MHC, L.L.C. agrees to be bound by any compliance date which precedes the effective date of this Order.

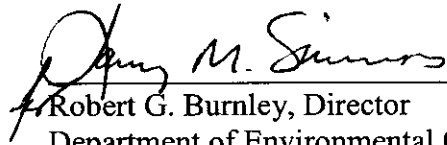
11. This Order shall continue in effect until:

- a. Sandy's MHC, L.L.C. petitions the VRO Director to terminate the Order after it has completed all requirements of this Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
- b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Sandy's MHC, L.L.C..

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Sandy's MHC, L.L.C. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. The undersigned representative of Sandy's MHC, L.L.C. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Sandy's MHC, L.L.C. to this document. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Sandy's MHC, L.L.C.
13. By its signature below, the Sandy's MHC, L.L.C. Mobile Home Community, L.L.C. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of July 5, 2005.



Robert G. Burnley, Director
Department of Environmental Quality

Sandy's Mobile Home Community, L.L.C. voluntarily agrees to the issuance of this Order.

By: Matthew E. Rayner

Title: Environmental Director

Date: 3-30-05

Commonwealth of Virginia

City/County of Chapel Hill/Orange

The foregoing document was signed and acknowledged before me this

30th day of March, 2005, by Matthew E. Rayner,
(name)

who is a representative of Sandy's Mobile Home Community, L.L.C., on behalf of said corporation.

(title)

[Signature]
Notary Public

My commission expires: Aug 27, 2009

APPENDIX A
SCHEDULE OF COMPLIANCE
SANDY'S MOBILE HOME COMMUNITY, L.L.C.

1. **As of January 17, 2005**, Sandy's MHC, L.L.C. has begun a performance evaluation of the Facility to determine the treatment efficiency during the critical winter months.
2. **By April 15, 2005**, Sandy's MHC, L.L.C. shall submit to DEQ for review and approval the plans and specifications for the proposed pH adjustment treatment.
3. **By April 15, 2005**, Sandy's MHC, L.L.C. shall complete the monitoring for the Facility's performance evaluation.
4. **By May 1, 2005**, Sandy's MHC, L.L.C. shall submit to DEQ for review and approval a report on the Facility's performance and treatment efficiency during the study.
5. **By July 15, 2005**, Sandy's MHC, L.L.C. shall submit to DEQ for review and approval a PER for proposed Facility modifications/upgrades necessary to ensure compliance with the pH tier 2005 Permit effluent limitations and requirements. Sandy's MHC, L.L.C. shall responds to any comments regarding the PER **within 30 days** of receipt of written comments.
6. **Within 60 days** of approval of the PER, Sandy's MHC, L.L.C. shall submit to DEQ for review and approval the plans and specifications for the approved Facility modifications/upgrades. Sandy's MHC, L.L.C. shall respond to any comments regarding the plans and specifications **within 30 days** of receipt of written comments.
7. **Within 60 days** of approval of the plans and specifications for the approved Facility modifications/upgrades, Sandy's MHC, L.L.C. shall begin construction of the approved modifications/upgrades.
8. **Within 180 days** of beginning construction of the approved Facility modifications/upgrades, Sandy's MHC, L.L.C. shall complete construction of the modifications/upgrades.
9. **Within 30 days** of completing construction of the new Facility, Sandy's MHC, L.L.C. shall request a CTO for the Facility. Sandy's MHC, L.L.C. shall respond to comments regarding construction deficiencies **within 30 days** of receipt of written comments.
10. **Within 60 days** of receipt of the CTO for the Facility upgrade, **but no later than February 1, 2007**, Sandy's MHC, L.L.C. shall meet final limits contained in the 2005 Permit.
11. Sandy's MHC, L.L.C. shall submit semi-annual progress reports to DEQ, with the first report being due **July 10, 2005**. Subsequent Progress Reports will be due by,

January 10, and July 10, along with the Facility's Discharge Monitoring Report until the cancellation of the Order. The semi-annual progress reports shall contain:

- a. a summary of all work completed since the previous progress report in accordance with this Order.
 - b. a projection of the work to be completed during the upcoming semi-annual period in accordance with this Order; and
 - c. a statement regarding any anticipated problems in complying with this Order.
12. No later than **14 days** following a date identified in the above schedule of compliance Sandy's MHC, L.L.C. shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.

APPENDIX B: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the effective date of this Consent Special Order and lasting until February, 2007 or the completion of the Plant upgrade as required in Appendix A, whichever occurs first, Sandy's MHC, L.L.C. shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>		
	<u>Monthly Average</u> mg/l	<u>kg/d</u>	<u>Weekly Average</u> mg/l	<u>kg/d</u>	<u>Min.</u>	<u>Max.</u> <u>Frequency</u>	<u>Sample Type</u>
CBOD ₅	32	4.67	34	5.92	NA	1/M	GRAB
ammonia	10.3	NL	10.3	NL	NA	1/M	GRAB

NA = Not Applicable
NL = No Limit